cases seem sound which hold that where equity has jurisdiction over the general subject-matter and is competent to administer relief, a failure to set up the defense of an adequate remedy at law is a waiver of it; for the "lack of jurisdiction" which can be waived in these cases is a far different thing from a "lack of jurisdiction" on account of being unable to take cognizance of the cause at all.

EVIDENCE—ADMISSIBILITY—EXHIBITION OF INFANT IN BASTARDY PROCEEDINGS.—The court permitted the plaintiff to introduce an illegitimate child three months old as evidence in bastardy proceedings, for the purpose of having the jury compare it with the defendant, the putative father, to detect resemblances between them. *Held,* the introduction of the child as evidence constituted reversible error. *Flores* v. *State* (Fla.), 73 South. 234. See NOTES, p. 490.

INSURANCE—HEALTH INSURANCE—FALSE REPRESENTATION OF SOUND HEALTH.—In an application for health insurance, the plaintiff innocently represented that he was in a sound condition physically, when in fact he had hernia, though to a very slight extent. It was provided by statute that no misrepresentation should bar recovery on a policy, unless fraudulent or material. *Held,* the plaintiff's misstatement will not vitiate the policy. *Hines* v. *New England Casualty Co.* (N. C.), 90 S. E. 131.

A warranty that the insured is in good or sound health is not broken, except by an ailment which is serious enough to affect and undermine his physcal constitution. See *Blackman* v. *United States Casualty Co.,* 117 Tenn. 578, 103 S. W. 784; *McDermott* v. *Modern Woodmen of America,* 97 Mo. App. 636, 71 S. W. 833. Only an ordinary degree of good health is required, and the question is usually one of fact for the jury. *French* v. *Fidelity & Casualty Co.,* 135 Wis. 259, 115 N. W. 869, 17 L. R. A. (N. S.) 1011; *Mays* v. *New Amsterdam Casualty Co.;* 40 App. D. C. 249, 46 L. R. A. (N. S.) 1108. See *Rathman* v. *New Amsterdam Casualty Co.,* 186 Mich. 115, 152 N. W. 983, L. R. A. (N. S.) 1915E, 980. But where the insured was in advanced stages of consumption, the question was not submitted to a jury. *Maine Benefit Ass'n* v. *Parks,* 81 Me. 79, 16 Atl. 339, 10 Am. St. Rep. 240. Pregnancy, in the case of a female applicant, being a normal function of a healthy body, is not a breach of such a warranty. *Merriman* v. *Grand Lodge Degree of Honor,* 77 Neb. 544, 110 N. W. 302, 8 L. R. A. (N. S.) 983. See *Rasicot* v. *Royal Neighbors of America,* 18 Idaho 85, 108 Pac. 1048, 29 L. R. A. (N. S.) 433. Nor, ordinarily, does asthma constitute a breach. *Blackman* v. *U. S. Casualty Co., supra.* Nor a cold, even though it later turns into pneumonia and causes the death of the insured. *Barnes* v. *Fidelity Mutual Life Ass'n,* 191 Pa. St. 618, 43 Atl. 341, 45 L. R. A. 264. See *Manhattan Life Ins. Co.* v. *Carder,* 82 Fed. 986.

When the applicant warrants that all statements by him are literally true, any misstatements as to health, however innocent, avoid the policy. *Cobb* v. *Covenant Mutual Benefit Ass'n,* 153 Mass. 176, 26 N. E. 230, 10 L. R. A. 666, 25 Am. St. Rep. 619; *Rathman* v. *New Amster-*